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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 89-594-W/S - ORDER NO. 91-123
FEBRUARY 12, 1991

IN RE: Application of Blue Ribbon Water)
Corporation for Approval of New) ORDER DENYING
Schedules of Rates and Charges) PETITION AND
for Water and Sewer Service Provided) DENYING BOND
to its Customers in its Service Area)
in South Carolina.)

This matter is before the Public Service Commission of South Carolina (the Commission) by way of a Petition for Reconsideration of Order No. 91-4 and a Petition for Approval of Bond filed by Blue Ribbon Water Corporation (Blue Ribbon). After careful review of Blue Ribbon's Petition for Reconsideration and Petition for Approval of Bond, the Commission concludes that both petitions should be denied.

Petition for Rehearing

Blue Ribbon submits the following arguments in support of its Petition for Rehearing:

1. It is beyond the authority of the Commission to set and establish compensation levels for employees of BRWC [Blue Ribbon];
2. The operating margin so stated violates the Federal and State constitutional rights of BRWC [Blue Ribbon],
3. Wholesale adoption of accounting adjustments so made is unsupported by the substantial evidence of the record;

4. Such is improper as to not allow BRWC [Blue Ribbon] to meet its obligations to customers and the Department of Health and Environmental Control;

5. Such Order violates all Sections of S.C. Code Ann., §1-23-380.

The Commission will address each of these concerns separately.

1. The Commission agrees that it is beyond its authority to set the salaries of utility employees. However, the Commission has authority to establish proper rates that utilities such as Blue Ribbon may charge their customers. In determining an appropriate rate the Commission considers the propriety of expenses incurred by the utility seeking a rate increase and makes proper adjustments. In this case, for ratemaking purposes the Commission made adjustments to the management and operating fees of Mr. Hopper and the salary of Blue Ribbon's bookkeeper. Blue Ribbon, however, may set the salaries of these employees at any level it deems appropriate.

2. Blue Ribbon alleges that the Commission's Order in regard to the approval of an operating margin violates principles of Federal and State constitutional law. Blue Ribbon does not explain what constitutional principles the Commission has purportedly violated. Accordingly, the Commission finds that it is unnecessary to address this argument.

Nonetheless, the Commission will assume that Blue Ribbon is arguing that the stated operating margin violates its due process rights. The Commission notes that the operating margin is an

approved guide for ratemaking purposes. Patton v. S. C. Public Service Commission, 280 SC 288, 312 SE2d 257 (1984). The record amply supports the Commission's adjustments to Blue Ribbon's gross revenues and operating expenses and, consequently, the 7.30% operating margin established by the Commission. This operating margin will allow Blue Ribbon the opportunity to earn \$16,106 total income for return after payment of its expenses. In light of the United State's Supreme Court's decisions in Bluefield Water Works and Improving Co. v. PSC of W. Va., 262 US 679 (1923), and Federal Power Commission v. Hope Natural Gas Co., 320 US 521 (1944), the Commission's stated operating margin is reasonable.

3. The accounting adjustments made by the Commission are substantially supported by the record. See, Hearing Exhibit No. 4, Commission Staff Report and testimony of staff witnesses Sharpe and Dowdy. While Blue Ribbon suggests that the adjustments made by the Commission were all to Blue Ribbon's detriment, the Commission notes that several adjustments (annualization of salaries, meter readers, insurance for a truck) benefited Blue Ribbon.

4. As explained in Paragraph 2, the operating margin established by the Commission will allow Blue Ribbon to earn \$16,106 total income after payment of its expenses. The Commission considered Blue Ribbon's verified obligations to its customers and to the Department of Health and Environmental Control in determining the operating margin.

5. The Commission's Order does not violate S.C. Code Ann.,

§1-23-380. This Section concerns judicial review upon exhaustion of administrative remedies. For these reasons, Blue Ribbon's Petition for Rehearing is denied.

Petition for Approval of Bond

Blue Ribbon states it plans to appeal Commission Order No. 91-4 if the Commission denies its Petition for Rehearing. Blue Ribbon asserts that during the appeal it intends to charge its customers more than the currently approved rates but less than those it had requested.¹ Blue Ribbon asks the Commission to approve its application for a bond pursuant to S.C. Code Ann. §58-5-240(D) (Supp. 1990). Blue Ribbon pledges all of its assets as security for the bond.

This Commission has the authority and responsibility to approve a reasonable bond and an appropriate surety which will protect the utility customer. Section 58-5-240(D)(Supp. 1990). In the case of an individual surety for a performance bond, the Commission generally requires a net worth of double the amount of the bond. In the case of water and sewer utilities the Commission does not accept corporate sureties except by those who are licensed bonding or insurance companies authorized to do business in South Carolina. (See Regs. 103-512(3.2) and 103-712(3.2)).

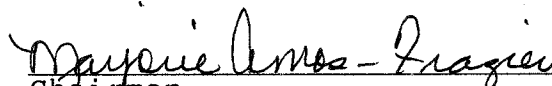
By charging its customers the rates suggested in its Application for Bond, Blue Ribbon will produce at least \$75,000 of

1. S.C. Code, §58-5-240(D) (Supp. 1990) states that a utility "may put the rates requested in its schedule into effect under bond" during the appeal. Apparently, Blue Ribbon intends to place rates less than it requested into effect during appeal.

additional revenues annually.² Assuming Blue Ribbon's appeal takes two years, the Commission needs to be assured that Blue Ribbon has at least a net worth of \$150,000.³ According to unaudited documents on file with the Commission, however, the assets of Blue Ribbon have a net worth of only \$137,900.

The Commission refuses to approve the bond as presently submitted by Blue Ribbon. According to its Regulations, the Commission does not accept corporate sureties for water and sewer utilities. Moreover, even if the Commission were to accept Blue Ribbon's assets as a surety, the net worth of those assets would be insufficient to protect the interests of Blue Ribbon's customers during the pendency of its appeal. Therefore, Blue Ribbon's petition for approval of bond is denied.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

2.If Blue Ribbon charged the rates as proposed in its schedule, it would produce an additional \$164,000 per year in revenue.

3.Blue Ribbon's net worth must also be sufficient to cover the payment of any interest that might be due its customers.